

Introduced by Senator Hancock

February 20, 2014

An act to add Section 66649 to the Government Code, relating to the San Francisco Bay Conservation and Development Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1184, as introduced, Hancock. San Francisco Bay Conservation and Development Commission: sea level rise: regional resilience strategy.

Existing law, the McAteer-Petris Act, establishes the San Francisco Bay Conservation and Development Commission, and requires the commission to regulate fill and development within a specified area in and along the shoreline of the San Francisco Bay area, and to implement comprehensive plans for the preservation and protection of the San Francisco Bay and the Suisun Marsh. Existing law authorizes the commission to develop regional strategies for addressing the impacts of, and adapting to, the effects of sea level rise and other impacts of global climate change on the San Francisco Bay and affected shoreline areas.

This bill would require the commission, in collaboration with various other state, regional, and local government agencies, to take action to protect San Francisco Bay area residents from potential inundation and flooding resulting from sea level rise by preparing a regional resilience strategy for adapting to rising sea levels in the San Francisco Bay, containing specified components. The bill would require the commission, no later than December 31, 2015, to complete the strategy and submit to the Legislature its recommendations for future actions to be taken regarding sea level rise.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) The San Francisco Bay Conservation and Development
4 Commission is a state agency with responsibility for
5 comprehensively managing the conservation and development of
6 the San Francisco Bay and its shoreline, and the protection and
7 preservation of the Suisun Marsh. The commission carries out this
8 responsibility under the provisions of the McAteer-Petris Act (Title
9 7.2 (commencing with Section 66600) of the Government Code)
10 (MPA), the policies of the San Francisco Bay Plan (Bay Plan), the
11 Suisun Marsh Preservation Act of 1977 (Division 19 (commencing
12 with Section 29000) of the Public Resources Code) (SMPA), and
13 policies of the Suisun Marsh Protection Plan (Marsh Plan).
14 (b) The commission is composed of 27 members, appointed by
15 a variety of authorities, including the Governor, the Speaker of the
16 Assembly, the Senate Committee on Rules, the boards of
17 supervisors of each of the nine San Francisco Bay area counties,
18 the Association of Bay Area Governments, the Transportation
19 Agency, the Department of Finance, the State Lands Commission,
20 the Natural Resources Agency, the San Francisco Bay Regional
21 Water Quality Control Board, the United States Army Corps of
22 Engineers, and the United States Environmental Protection Agency.
23 (c) The commission's large and diverse membership, which
24 includes representatives from diverse interests in the San Francisco
25 Bay area, allows the commission to serve as a coordinator for
26 affected agencies and the public, where the public and those
27 agencies can collaborate and communicate their interests and
28 perspectives, and reach consensus on how to address critical issues
29 affecting the San Francisco Bay.
30 (d) The Legislature has directed the commission to keep the
31 Bay Plan up to date so that it reflects the latest scientific research
32 on the San Francisco Bay and addresses emerging issues that could
33 impact the bay in the future. To accomplish this, the Legislature
34 has empowered the commission to amend the Bay Plan if
35 two-thirds or 18 of the 27 members of the commission vote for

1 the amendment, after providing for public review and a public
2 hearing. Section 66652 of the Government Code authorizes the
3 commission to amend, or repeal and adopt a new form of all or
4 any part of, the Bay Plan, but requires that those changes be
5 consistent with the findings and declarations of the policy contained
6 in the MPA. Section 29202 of the Public Resources Code further
7 authorizes the commission to amend provisions of the SMPA.

8 (e) When the MPA, SMPA, Bay Plan, and Marsh Plan were
9 written, the commission was unaware of the dynamic forces driving
10 changes to the San Francisco Bay and the Suisun Marsh. In the
11 1960s and 1970s, the San Francisco Bay and the Suisun Marsh
12 were perceived as having static water levels that moved within
13 predictable, stable tidal ranges. In 1989, the commission first
14 recognized the potential effects of climate change and rising sea
15 level on the San Francisco Bay, and amended the Bay Plan to
16 incorporate changes to its safety of fills policies to ensure rising
17 sea level was integrated into the San Francisco Bay fill project
18 designs. However, a lack of scientific consensus and public
19 acknowledgment of the problem made implementation of these
20 policies difficult. By the mid-2000s, a scientific consensus had
21 emerged that global climate was changing due to anthropogenic
22 forces, and that these changes would lead to, among other things,
23 significant sea level rise over time.

24 (f) Pursuant to Section 66646.2 of the Government Code, the
25 commission has general authority to plan for sea level rise. The
26 commission's 2011 study of sea level rise found that potential
27 impacts could have profound effects on the bay's waterfront
28 communities, economic sustainability, and ecology. The
29 commission's regional assessment of the potential impacts to the
30 bay shoreline, entitled "Living with a Rising Bay: Vulnerability
31 and Adaptation in San Francisco Bay and on its Shoreline,"
32 identified the threat of global climate change and sea level rise on
33 the bay's shoreline communities and ecology and found that over
34 280 square miles of shoreline land and over 250,000 residents are
35 at risk of flooding at just moderate levels of sea level rise. The
36 assessment also estimated that approximately \$62,000,000,000
37 would be needed to replace flooded business and residential
38 structures as a result of sea level rise.

39 (g) When the commission amended the Bay Plan in 2011 to
40 address climate change and sea level rise, it included a policy

1 exhorting the region to formulate a regional sea level rise
2 adaptation strategy for protecting critical developed shoreline areas
3 and natural ecosystems, enhancing the resilience of the bay and
4 shoreline systems and increasing their adaptive capacity, and
5 specifying that the strategy should be prepared by the commission
6 in collaboration with the Bay Area Joint Policy Committee, other
7 regional, state, and federal agencies, local governments, and the
8 general public. The policy recommends, in part, that the strategy
9 incorporate an adaptive management approach and be consistent
10 with the goals of Chapter 728 of the Statutes of 2008 (SB 375),
11 and that the principles of the strategy be updated regularly to reflect
12 changing conditions and scientific information and include maps
13 of shoreline areas that are vulnerable to flooding based on
14 projections of future sea level rise and shoreline flooding, with
15 particular attention given to identifying and encouraging the
16 development of long-term regional flood protection strategies. In
17 addition, the policy states that, ideally, the regional strategy will
18 determine where and how existing development should be protected
19 and infill development encouraged, where new development should
20 be permitted, and where existing development should eventually
21 be removed to allow the bay to migrate inland.

22 (h) Currently, the state is dedicating resources to statewide sea
23 level rise adaptation planning in a manner that benefits the San
24 Francisco Bay through the California Environmental Protection
25 Agency's Office of Planning and Research, the Natural Resources
26 Agency's Ocean Protection Council, the State Coastal
27 Conservancy, and the State Lands Commission. The efforts of
28 these programs will provide valuable resources to help support the
29 San Francisco Bay area's regional efforts to prepare a regional
30 strategy to adapt to sea level rise.

31 SEC. 2. It is the intent of the Legislature that, in light of the
32 findings and declarations in Section 1, the commission shall prepare
33 a regional strategy to address sea level rise, in collaboration with
34 affected regional and local governments and appropriate state and
35 federal agencies.

36 SEC. 3. Section 66649 is added to the Government Code, to
37 read:

38 66649. (a) The commission shall, in collaboration with state,
39 regional, and local government agencies, take action to protect
40 San Francisco Bay area residents from potential inundation and

1 flooding resulting from sea level rise by preparing a regional
2 resilience strategy for adapting to rising sea levels in the San
3 Francisco Bay. The main goal of this resilience strategy shall be
4 to increase San Francisco Bay area preparedness and resilience to
5 climate change impacts by reducing the flood risk to valuable
6 shoreline development and protecting wetlands, transitional
7 habitats, and bay-related wildlife.

8 (b) The commission shall work with federal, state, regional, and
9 local partners to conduct shoreline adaptation planning, using
10 tested planning processes and tools, to formulate a regional
11 resilience strategy for the San Francisco Bay and surrounding areas
12 that are at risk that addresses flooding from rising sea level and
13 storms, and shall assist local governments to craft local strategies
14 to address the effects of sea level rise. The strategy shall include
15 two integrated components:

16 (1) Community or agency-based planning efforts undertaken
17 with local governments and special districts to increase the
18 resilience of specific shoreline areas and assets.

19 (2) A regional assessment of shoreline vulnerabilities and a
20 planning process to identify and develop adaptation options
21 necessary at the regional scale. Models, processes, and tools that
22 address communication, community engagement, and
23 decisionmaking will be used in collaboration with local partners
24 and existing regional and community efforts.

25 (c) Formulation of the regional resilience strategy shall, to the
26 extent possible, address all of the following goals and objectives:

27 (1) Advance regional public safety and economic prosperity by
28 protecting all of the following:

29 (A) Existing development that provides regionally significant
30 benefits.

31 (B) New shoreline development that is consistent with the San
32 Francisco Bay Plan and other applicable state policies.

33 (C) Infrastructure that is crucial to public health or the region's
34 economy, such as airports, ports, regional transportation,
35 wastewater treatment facilities, major parks, recreational areas,
36 and trails.

37 (2) Enhance the San Francisco Bay ecosystem by identifying
38 areas where tidal wetlands and tidal flats can migrate landward;
39 assuring adequate volumes of sediment for marsh accretion;
40 identifying conservation areas that should be considered for

1 acquisition, preservation, or enhancement; developing and planning
2 for flood protection; and maintaining sufficient transitional habitat
3 and upland buffer areas around tidal wetlands.

4 (3) Integrate the protection of existing and future shoreline
5 development and infrastructure with the enhancement of the San
6 Francisco Bay ecosystem, such as by using feasible shoreline
7 protection measures that incorporate natural bay habitat for flood
8 control and erosion prevention.

9 (4) Encourage innovative approaches to sea level rise adaptation,
10 particularly multiobjective adaptation strategies.

11 (5) Identify a framework for integrating the adaptation responses
12 of multiple government agencies.

13 (6) Integrate regional mitigation measures designed to reduce
14 greenhouse gas emissions with regional adaptation measures
15 designed to address the unavoidable impacts of climate change.

16 (7) Address environmental justice and social equity issues.

17 (8) Integrate hazard mitigation and emergency preparedness
18 planning with adaptation planning by developing techniques for
19 reducing contamination releases, structural damage, and toxic mold
20 growth associated with the flooding of buildings, and establishing
21 emergency assistance centers in neighborhoods at risk from
22 flooding and other mitigation measures.

23 (9) Advance regional sustainability, encourage infill
24 development and job creation, provide diverse housing served by
25 transit, and protect historical and cultural resources.

26 (10) Encourage the remediation of shoreline areas with existing
27 environmental degradation and contamination in order to reduce
28 risks to the San Francisco Bay's water quality in the event of
29 flooding.

30 (11) Identify and pursue research that supports adaptive
31 management of the strategy and that provides information useful
32 for planning and policy development on the impacts of climate
33 change on the San Francisco Bay, particularly those related to
34 shoreline flooding.

35 (12) Identify actions to prepare and implement the strategy,
36 including any needed changes in the law and policy.

37 (13) Identify mechanisms to provide information, tools, and
38 financial resources to enable local governments to integrate
39 regional climate change adaptation planning into local community
40 planning processes.

1 (d) The commission shall prepare the strategy in close
2 coordination with the Bay Area Joint Policy Committee, the State
3 Coastal Conservancy, the Ocean Protection Council, and the Office
4 of Planning and Research, and in such a way that the strategy may
5 be adopted as the shoreline resiliency component of the San
6 Francisco Bay area's sustainable communities strategy pursuant
7 to Section 65080.

8 (e) The commission shall, no later than December 31, 2015,
9 complete the regional resilience strategy and shall submit to the
10 Legislature its recommendations for future actions to be taken
11 regarding sea level rise.

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